

COMMONWEALTH OF VIRGINIA



SUMMONS – CIVIL ACTION RULE 3:5; VA. CODE § 8.01-2

Case No. CL22000189-00

ROCKBRIDGE COUNTY CIRCUIT COURT

20 S RANDOLPH ST, SUITE 101, LEXINGTON, VA 24450

ADDRESS

TO:

RIVERA CARRIER INC

REGISTERED AGENT: FERNANDO RIVERA

3245 POINCIANAN DR

NAPLES, FL 34105

The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the clerk's office of this court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment or decree against such party either by default or after hearing evidence.

Appearance in person is not required by this summons.

Done in the name of the Commonwealth of Virginia.

MARCH 25, 2022

DATE

MICHELLE M. TROUT

Clerk

by

Marnie B. Michaels D.C.
DEPUTY CLERK

Instructions:

Hearing Official:

VIRGINIA:

IN THE CIRCUIT COURT OF ROCKBRIDGE COUNTY

LUCKY CAESAR NIERVA
10433 210th Street
Queens Village, NY 11429

Plaintiff,

vs.

CASE NO. CL22000189-00

Serve:

TEGUEZ MICHAEL RIVERA
3245 Poinciana Drive
Naples, FL 34105

RIVERA CARRIER, INC.
Registered Agent: Fernando Rivera
3245 Poinciana Drive
Naples, FL 34105

Defendants.

COMPLAINT

COMES NOW the Plaintiff, Lucky C. Nierva, by counsel, and files this Complaint against the Defendant Teguez Michael Rivera, in the sum of Five Hundred Thousand Dollars (\$500,000.00) in compensatory damages with interest from January 27, 2021, for personal injuries he sustained on that date. In support of his Complaint, the Plaintiff states as follows:

1. Lucky C. Nierva currently resides at 10433 210th Street, Queens Village, NY 11429.
2. Teguez Michael Rivera, is a resident of 3245 Poinciana Drive, Naples, FL 34105.
3. At all times and places pertinent to this action, Defendant Teguez Michael Rivera was acting in the course and scope of his employment as an employee of Rivera Carrier, Inc. ("Rivera Carrier").

4. Rivera Carrier is a Texas corporation or business association with its principal place of business located at 3245 Poinciana Drive, Naples, FL 34105.

5. At all times and places pertinent to this action, Rivera Carrier was acting through its employees, agents, servants, workmen, partners, and joint venturers, including but not limited to Defendant Teguez Michael Rivera.

6. Rivera Carrier is responsible for the actions and inactions of its employees, agents, servants, workmen, partners, and joint venturers, including, but not limited to, Defendant Teguez Michael Rivera under the doctrines of *respondeat superior*, agency, partnership, corporate liability, and/or other applicable doctrines.

7. On January 27, 2021, at approximately 6:10 p.m., Mr. Nierva was a driver of a 2008 Chevy Malibu traveling southbound on Interstate 81 in Rockbridge County.

8. As a result of a collision with another vehicle, the driver of which is unknown, Mr. Nierva's car came to a stop located partially within the left lane of travel and pointing perpendicular to the direction of travel.

9. Mr. Nierva thereafter exited his vehicle and walked into the median with a flashlight to alert oncoming drivers and direct traffic.

10. Two vehicles traveling southbound in the left lane of Interstate 81 came upon Mr. Nierva's incapacitated vehicle, slowed down, and came to a complete stop behind Mr. Nierva's vehicle.

11. A third vehicle traveling southbound in the left lane of Interstate 81 also slowed down behind the two stopped vehicles.

12. Defendant Teguez Michael Rivera was a driver of a 2008 Freightliner Cascadia also driving southbound on Interstate 81.

13. As he approached the scene of Mr. Nierva's stopped vehicle and the three vehicles slowed or stopped behind Mr. Nierva's vehicle, Defendant Rivera failed to slow his tractor trailer. He therefore collided with the vehicle directly in front of him and slid into the median.

14. Because of his failure to slow his tractor trailer, Defendant Rivera continued sliding down the median and collided directly with Mr. Nierva, who had exited his vehicle and was standing in the median with a flashlight.

15. Defendant Rivera had a duty to operate his vehicle with reasonable care and due regard for others using the road.

16. Notwithstanding these duties, Defendant Rivera did then and there so carelessly, recklessly, and negligently operate his vehicle in such a way so as to crash his vehicle with great force and violence into Mr. Nierva's person.

17. Defendant Rivera was negligent in that he:

- a. Failed to keep a proper lookout under the conditions of the interstate at the time;
- b. Failed to see what was in plain sight under the circumstances of the interstate at the time;
- c. Failed to be attentive and aware of other motorists and/or roadway conditions;
- d. Failed to exercise reasonable care under the circumstances then and there existing;
- e. Failed to maintain proper control of his vehicle, causing the Plaintiffs injuries and damages as described below; and
- f. Failed to maintain a reasonable speed for the circumstances and traffic conditions at the time his vehicle collided with Mr. Nierva.

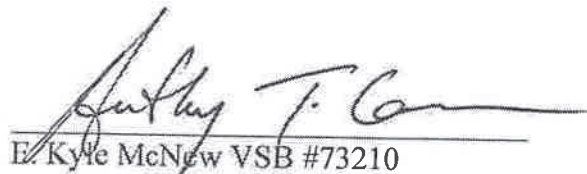
18. As a direct and proximate cause of Defendant Rivera's negligence, Mr. Nierva has sustained serious and painful injuries that are or may be permanent; he has suffered physical pain, discomfort, and mental anguish, which will or may continue in the future; he has incurred

substantial expenses for doctors and related medical care; and he will or may continue to incur such expenses in an effort to be cured and healed; he has been unable to perform all of the requirements of daily living or enjoy the normal activities of life, and he will or may continue to be unable to perform all of these activities in the future.

WHEREFORE, Plaintiff Lucky C. Nierva demands judgment against Defendant Teguez Michael Rivera, in the sum of Five Hundred Thousand Dollars (\$500,000.00) for sustained personal injuries, with interest at the statutory rate from January 27, 2021, and his costs in this behalf expended.

TRIAL BY JURY IS DEMANDED.

LUCKY C. NIERVA
By Counsel



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